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August 1, 2022

## **VIA ECF**

The Honorable Denise L. Cote  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1910  
New York, New York 10007

Re: McKenna v. Santander Investment Securities, Inc., *et al.*; Case No.: 21-cv-  
00941(DLC)

Dear Judge Cote:

We represent Plaintiff Erin McKenna (“McKenna”) in the above matter and write to seek clarification on two points in the Court’s recent Opinion and Order regarding Defendants Santander Investment Securities, Inc., Santander Holdings, USA, Inc. and Omar Kariuki’s (together, “Defendants”) Motion for Summary Judgment, Dkt. No. 105 (“Order”). First, in her tenth cause of action, McKenna had asserted a claim for retaliation under the Administrative Code of the City of New York § 8-107 *et seq.* (the “City Law”). Am. Compl., Dkt. No. 20. In McKenna’s opposition to summary judgment, she specified that her City Law retaliation claim was predicated in part on her seeking an accommodation in 2019. In other words, she argued that the record could support a jury finding that Defendants took away accounts, reduced bonuses and ultimately fired McKenna because she sought an accommodation for her pregnancy-related disability. Memorandum of Law in Opposition to Motion for Summary Judgment, Dkt. No. 82 at 39-40. Defendants declined to address this theory either in their motion or in their reply. While the Court’s Order held that the City Law retaliation claim would not be dismissed, the Court did not appear to address this theory in its Order. McKenna therefore respectfully seeks clarification of this point.

Second, in her ninth cause of action, McKenna raised a complaint of caregiver discrimination under the City Law. The summary judgment motion did not address the caregiver discrimination claim. We write to confirm that McKenna’s caregiver discrimination claim will proceed to trial as well.

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We thank for the Court for its attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Valdi Licul', with a long horizontal stroke extending to the right.

Valdi Licul

Cc: Mitch Boyarsky, Esq. (*via* ECF)  
Nicole Phe, Esq. (*via* ECF)